

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2346

IN THE MATTER OF:

Served June 15, 1982

Application of JAMES M. SMITH,)
INC., for Special Authorization)
to Perform Charter Operations)
Pursuant to Contract -- National)
Institutes of Health)

Case No. CP-82-04

By application filed June 11, 1982, James M. Smith, Inc. (Smith), seeks authorization to operate pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1 under contract with the National Institutes of Health, DHHS (NIH) transporting NIH patients and outpatients, their parents and guardians, together with mail, express and baggage in the same vehicle with passengers, "within a 50-mile radius of Bethesda, Md." While this territorial description appears to include all points in the Metropolitan District, it clearly embraces points outside this Commission's jurisdiction. Applicant will be directed to specify the points involved. As stated, the 50-mile radius description is not adequate to sustain a grant of authority, and to the extent the application may be construed as seeking authorization for service outside the Metropolitan District, it is hereby dismissed for want of jurisdiction. See Compact, Title II, Article XII, Section 1.

The contract between Smith and NIH calls for service from the award of authority through March 31, 1983, with options to renew for two additional 12-month periods. The contract includes scheduled service to NIH (and the medical center), the United Inn (Bethesda, Md.) and Washington National Airport as well as service to patients' homes within the 50-mile radius of Bethesda, Md. Four vehicles will be required Mondays through Fridays and two vehicles on Sundays. Smith proposes to purchase four new 15-passenger vans in addition to an existing 15-passenger van it owns for performance of the involved service.

Smith's balance sheet for the year ended March 31, 1982, shows current assets of \$45,429, long-term assets of \$84,199, liabilities of

\$88,526 and equity of \$41,102. Applicant's statement of revenue and revenue deductions to be generated by the proposed operations over a planned three-year period shows \$640,623 in revenues and \$475,538 in expenses.

Applicant's president is experienced in providing scheduled shuttle service, certifies that he is familiar with the Commission's rules and regulations and will comply therewith, and states that the company has not been found unfit by any specified regulatory agency and is not under any fitness investigation.

The NIH contracting officer submitted an affidavit in support of the application, stating that the agency requires a shuttle transportation operation to provide service for NIH patients and outpatients and their parents and guardians between points in the Washington metropolitan area. The service is now being performed by Beltway Limousine Service, Inc., pursuant to a contract that expires June 30, 1982. NIH is satisfied with Smith's ability properly to perform the service.

Applicant will be directed to furnish a proper certificate of insurance in conformance with Commission Regulation 62 and evidence that its vehicles have been licensed and approved for transportation-for-hire operations by one or more signatories to the Compact.

Inasmuch as there is a definite intent to execute a contract for the transportation of members of a qualifying association for a period in excess of 181 days, this application appears generally to be amenable to processing under Commission Regulation No. 70. */ Pursuant to Commission Regulation No. 70-06, notice of this application must be published and opportunity given for the filing of protests. Protests, if any, must be written, sworn and notarized, and must contain all evidence and argument upon which the protestant would rely.

THEREFORE, IT IS ORDERED:

1. That the application of James M. Smith, Inc., to the extent it seeks to provide service to points outside the Metropolitan District, is hereby dismissed.

2. That James M. Smith, Inc., publish once, in a newspaper of general circulation in the Metropolitan District, notice of this

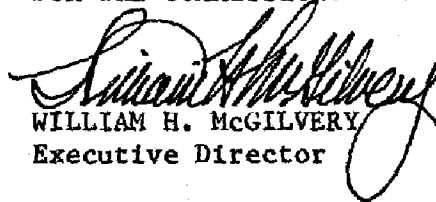
*/ See Order No. 2004, served June 20, 1979, and effective July 21, 1979.

application in the form prescribed by the staff of the Commission no later than Thursday, June 17, 1982.

3. That applicant shall file an affidavit of such publication and the supplemental material described above with the Commission no later than Friday, June 25, 1982.

4. That any person desiring to protest this application shall file a notarized protest in conformance with Commission Regulation No. 70-06 at the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, no later than Monday, June 28, 1982, and shall simultaneously serve a copy of such protest on counsel for applicant, William H. Shawn, Esquire, Suite 501, 1730 M Street, N. W., Washington, D. C. 20036.

FOR THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director